

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
JULIET HOMES, LP	§	Case No. 07-36424-H1-7
JULIET GP, LLC	§	Case No. 07-36426-H1-7
DOUGLAS A. BROWN	§	Case No. 07-36422-H1-7
	§	
DEBTORS.	§	
	§	

JOSEPH M. HILL, TRUSTEE	§	
AND W. STEVE SMITH, TRUSTEE,	§	
	§	
PLAINTIFFS	§	
	§	Adversary No. 09-3429
v.	§	
	§	
ALEX ORIA, ET AL	§	
	§	
DEFENDANTS.	§	

**TERRY LUTTRELL'S ANSWER AND AFFIRMATIVE DEFENSES
TO TRUSTEE'S SECOND AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

TERRY LUTTRELL, Defendant, files this his Answer to Trustee's Second Amended Complaint, and in support thereof, respectfully represents:

1. Defendant admits the factual allegations contained in Paragraph 1.
2. Defendant admits the factual allegations contained in Paragraph 2.
3. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 3.
4. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 4.

5. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 5.

6. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 6.

7. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 7.

8. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 8.

9. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 9.

10. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 10.

11. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 11.

12. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 12.

13. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 13.

14. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 14.

15. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 15.

16. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 16.

17. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 17.

18. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 18.

19. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 19.

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Paragraph 20.

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Paragraph 21.

22. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 22.

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Paragraph 23.

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Paragraph 24.

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Paragraph 25.

26. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 26.

27. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 27.

28. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 28.

29. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 29.

30. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 30.

31. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 31.

32. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 32.

33. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 33.

34. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 34.

35. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 35.

36. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 36.

37. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 37.

38. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 38.

39. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 39.

40. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 40.

41. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 41.

42. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 42.

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Paragraph 43.

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Paragraph 44.

45. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 45.

46. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 46.

47. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 47.

48. Defendant admits the allegations of Paragraph 48.

49. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 49.

50. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 50.

51. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 51.

52. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 52.

53. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 53.

54. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 54.

55. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 55.

56. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 56.

57. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 57.

58. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 58.

59. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 59.

60. Defendant asserts that Paragraph 60 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

61. Defendant asserts that Paragraph 61 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

62. Defendant asserts that Paragraph 62 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations. Defendant lacks sufficient information to admit or deny the factual allegations of the last two sentences of Paragraph 62.

63. Defendant asserts that Paragraph 63 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

64. Defendant admits the venue allegations of Paragraph 64.

65. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 65.

66. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 66.

67. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 67.

68. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 68.

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Paragraph 69.

70. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 70.

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Paragraph 72.

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Paragraph 73.

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Paragraph 74.

75. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 75.

76. Defendant admits the allegations of Paragraph 76.

77. Defendant admits the allegations of Paragraph 77.

78. Defendant admits the allegations of Paragraph 78.

79. Defendant admits the allegations of Paragraph 79.

80. Defendant admits the allegations of Paragraph 80.

81. Defendant asserts that Paragraph 81 of the Complaint contains no factual allegations to which he is required to respond. However, in the event that any of the statements in such paragraph

are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

82. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 82.

83. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 83.

84. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 84.

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86. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 86.

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131. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 131.

132. Defendant lacks sufficient information to admit or deny the factual allegations of

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133. Defendant lacks sufficient information to admit or deny the factual allegations of

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136. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 136.

137. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 137.

138. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 138.

139. Defendant lacks sufficient information to admit or deny the factual allegations of

Paragraph 139.

140. Defendant denies the allegations of Paragraph 140.

141. Defendant denies the allegations of Paragraph 141.

142. Defendant denies the allegations of Paragraph 142.

143. Defendant incorporates his responses to the incorporated allegations of Paragraph 143.

144. Defendant incorporates his responses to the incorporated allegations of Paragraph 144.

145. Defendant asserts that Paragraph 145 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

146. Defendant asserts that Paragraph 146 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

147. Defendant asserts that Paragraph 147 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

148. Defendant asserts that Paragraph 148 of the Complaint contains legal argument to which he

is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

149. Defendant asserts that Paragraph 149 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

150. Defendant asserts that Paragraph 150 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

151. Defendant asserts that Paragraph 151 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

152. Defendant asserts that Paragraph 152 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

153. Defendant asserts that Paragraph 153 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

154. Defendant asserts that Paragraph 154 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

155. Defendant incorporates his responses to the incorporated allegations of Paragraph 155.

156. Defendant asserts that Paragraph 156 of the Complaint contains legal argument to which he

is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

157. Defendant asserts that Paragraph 157 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

158. Defendant asserts that Paragraph 158 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

159. Defendant asserts that Paragraph 159 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

160. Defendant incorporates his responses to the incorporated allegations of Paragraph 160.

161. Defendant asserts that Paragraph 161 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

162. Defendant asserts that Paragraph 162 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

163. Defendant asserts that Paragraph 163 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

164. Defendant asserts that Paragraph 164 of the Complaint contains legal argument to which he

is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

165. Defendant incorporates his responses to the incorporated allegations of Paragraph 165.

166. Defendant asserts that Paragraph 166 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

167. Defendant asserts that Paragraph 167 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

168. Defendant asserts that Paragraph 168 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

169. Defendant asserts that Paragraph 169 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

170. Defendant asserts that Paragraph 170 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

171. Defendant incorporates his responses to the incorporated allegations of Paragraph 171.

172. Defendant asserts that Paragraph 172 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

173. Defendant asserts that Paragraph 173 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

174. Defendant asserts that Paragraph 174 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

175. Defendant asserts that Paragraph 175 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

176. Defendant incorporates his responses to the incorporated allegations of Paragraph 176.

177. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 177.

178. Defendant incorporates his responses to the incorporated allegations of Paragraph 178.

179. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 79.

180. Defendant incorporates his responses to the incorporated allegations of Paragraph 180.

181. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 181.

182. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 182.

183. Defendant incorporates his responses to the incorporated allegations of Paragraph 183.

184. Defendant denies the factual allegations of Paragraph 184.

185. Defendant denies the factual allegations of Paragraph 185.

186. Defendant asserts that Paragraph 186 of the Complaint contains legal argument to which he is not required to respond. However, in the event that any of the statements in such paragraph are deemed to be allegations in support of relief in favor of Plaintiff, Defendant denies such allegations.

187. Defendant incorporates his responses to the incorporated allegations of Paragraph 187.

188. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 188.

189. Defendant lacks sufficient information to admit or deny the factual allegations of Paragraph 189.

190. Defendant incorporates his responses to the incorporated allegations of Paragraph 190.

191. Defendant denies the factual allegations of Paragraph 191.

AFFIRMATIVE DEFENSES

192. Defendant asserts the affirmative defense of statute of limitations.

193. With respect to the allegations alleged under 11 U.S.C. § 547, Defendant asserts the following affirmative defenses:

- a. The Debtor was not insolvent at the time of the alleged transfer.
- b. The alleged transfer was not made within 90 days before the date of the filing of the petition;
- c. The Defendant is not an insider.
- d. The payment was not made to or for the benefit of a creditor.
- e. The alleged transfer was not made for or on account of an antecedent debt.
- f. The alleged transfer was not a transfer of an interest of the debtor in property.

194. With respect to the allegations alleged under 11 U.S.C. § 548, Defendant asserts the following affirmative defenses:

- a. The alleged transfer was not made with intent to hinder, delay, or defraud any entity to whom the Debtor subsequently became obligated.
- b. The Debtor received reasonably equivalent value in exchange for the transfer.
- c. The Debtor was not insolvent at the time of the alleged transfer, nor became insolvent due to such transfer.
- d. The Defendant is not an insider.
- e. The Defendant acted in good faith and gave fair value.
- f. The alleged transfer was not a transfer of an interest of the debtor in property.

195. Defendant asserts that to the extent the Trustee's fraudulent transfer claims are allowed, Defendant is entitled to a lien on the recovered assets equal to the value given to the Debtor in exchange for the transfers pursuant to 11 U.S.C. § 548(c) and Texas Business and Commerce Code § 24.009(d)(1)(A).

196. Defendant took for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer sought to be avoided.

197. Defendant is a good faith transferee.

198. Defendant asserts the affirmative defenses of laches, waiver and estoppel.

JURY DEMAND

199. Defendant demands trial by jury.

WHEREFORE, Terry Luttrell prays that judgment be entered in favor of Defendant; that Defendant be awarded costs and reasonable attorney's fees, and that Defendant receive such other relief to which he may be legally and equitably entitled.

Dated: September 1, 2011.

/s/ Patrick D. Devine
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State Bar No. 05662200
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Houston, Texas 77056
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Fax: 713-965-9173
Email: pdevine@pdevinelaw.com

ATTORNEYS FOR TERRY LUTTRELL

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served via electronic mail, ecf electronic mail and/or by first class mail postage prepaid this 1st day of September, 2011, upon the following and the counsel for the other parties by ecf electronic mail:

Susan Hardie Jacks
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Theresa Mobley
Cage, Hill & Niehaus, L.L.P.
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Houston, Texas 77010

/s/ Patrick D. Devine